



CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY



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LINDA S. ADAMS
SECRETARY FOR
ENVIRONMENTAL PROTECTION

ARNOLD SCHWARZENEGGER
GOVERNOR

Certified Mail: 7003 1680 6167 6278

June 10, 2008

Mr. Bob Kennedy
Chief of Public Health
Santa Cruz County
Environmental Health Services
701 Ocean Street, Room 312
Santa Cruz, California 95060-4003

Dear Mr. Kennedy:

The California Environmental Protection Agency (Cal/EPA), Office of Emergency Services, Department of Toxic Substances Control, and the State Water Resources Control Board conducted a program evaluation of the Santa Cruz County Environmental Health Services Certified Unified Program Agency (CUPA) on April 16 and 17, 2008. The evaluation was comprised of an in-office program review, and field oversight inspections, by State evaluators. The evaluators completed a Certified Unified Program Agency Evaluation Summary of Findings with your agency's program management staff. The Summary of Findings includes identified deficiencies, a list of preliminary corrective actions, program observations, program recommendations, and examples of outstanding program implementation.

The enclosed Evaluation Summary of Findings is now considered final and based upon review, I find that Santa Cruz County Environmental Health Services' program performance is satisfactory with some improvement needed. To complete the evaluation process, please submit Deficiency Status Reports to Cal/EPA that depict your agency's progress towards correcting the identified deficiencies. Please submit your Deficiency Progress Reports to Jennifer Lorenzo every 90 days after the evaluation date. The first deficiency progress report is due on July 16, 2008.

Cal/EPA also noted during this evaluation that Santa Cruz County Environmental Health Services has worked to bring about a number of local program innovations, including the CUPA's effective use of the notice for an office hearing in order to obtain compliance from its regulated community. We will be sharing these innovations with the larger CUPA community through the Cal/EPA Unified Program web site to help foster a sharing of such ideas statewide.

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Thank you for your continued commitment to the protection of public health and the environment through the implementation of your local Unified Program. If you have any questions or need further assistance, you may contact your evaluation team leader or Jim Bohon, Manager, Cal/EPA Unified Program at (916) 327-5097 or by email at jbohon@calepa.ca.gov.

Sincerely,

[Original signed by Don Johnson]

Don Johnson
Assistant Secretary
California Environmental Protection Agency

Enclosure

cc/Sent via email:

Mr. Steve Schneider
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CALIFORNIA ENVIRONMENTAL PROTECTION AGENCY

Enclosure



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CERTIFIED UNIFIED PROGRAM AGENCY EVALUATION SUMMARY OF FINDINGS

CUPA: SANTA CRUZ COUNTY ENVIRONMENTAL HEALTH SERVICES

Evaluation Date: April 16 and 17, 2008

EVALUATION TEAM

Cal/EPA: Jennifer Lorenzo
OES: Jeffrey Tkach
SWRCB: Sean Farrow
DTSC: Mark Pear

This Evaluation Summary of Findings includes the deficiencies identified during the evaluation, program observations and recommendations, and examples of outstanding program implementation activities. Questions or comments can be directed to Jennifer Lorenzo at (916) 327-9560.

	<u>Deficiency</u>	<u>Corrective Action</u>
1	The CUPA is not accurately reporting all items requested on their Annual Inspection Summary Report 3. For example, the number of routine inspections that returned to compliance and the number of other inspections were all reported as “zeros” for the last three fiscal years (FYs) 04/05, 05/06, and 06/07. CCR, Title 27, Section 15290 (a)(2) [Cal/EPA]	The CUPA corrected this deficiency at the time of the evaluation. A revised Annual Inspection Summary Report for the last FY (06/07) with the correct information was submitted. Note: before submittal of any report, the CUPA needs to verify that the data reported are as accurate as possible.
2	The CUPA is not fully tracking and reporting violations information and enforcement actions taken on their Annual Enforcement Summary Report 4. For example, in FYs 04/05, 05/06, and 06/07, the CUPA did not accurately report its enforcement actions for all Unified Program elements. Also, the CUPA did not verify the information reported under the number of facilities that received violations for all Unified Program elements. CCR, Title 27, Section 15290(a)(3) [Cal/EPA]	The CUPA corrected this deficiency at the time of the evaluation. A revised Annual Enforcement Summary Report for the last FY (06/07) with the correct information was submitted. Note: before submittal of any report, the CUPA needs to verify that the data reported are as accurate as possible.
3	The CUPA’s Inspection and Enforcement (I&E) Program Plan does not contain all the required elements. The CUPA’s 2007 I&E Program Plan was missing the inspection frequencies for each program element. CCR, Title 27, Section 15200 (a)(3) [Cal/EPA]	The CUPA corrected this deficiency at the time of the evaluation.
4	The CUPA’s FY 05/06 and FY 06/07 Self-Audit Reports did not contain all of the required elements. The reports	By October 14, 2008, the CUPA will submit their FY 07/08 Self-Audit Report

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	<p>were missing the narrative summary of the effectiveness of activities, including but not limited to permitting, inspection, and enforcement activities undertaken.</p> <p>CCR, Title 27, Section 15280 (c)(2) [Cal/EPA]</p>	that contains all the required elements.
5	<p>The CUPA has not updated its Area Plan within the last three years. The CUPA's last Area Plan was last updated in 1991 and needs to be revised to reflect changes within their jurisdiction.</p> <p>This deficiency was identified during the CUPA's last evaluation in 2005 and remains outstanding.</p> <p>The CUPA has almost finalized its Area Plan. On April 2, 2008, the CUPA invited all of its emergency response agencies (County, City of Capitola, City of Santa Cruz, City of Scotts Valley, City of Watsonville, University of Santa Cruz, and the State Parks) for a meeting to finalize the memorandum of understanding (MOU). All agencies but the State Parks attended. Comments to the MOU have been requested from all response agencies. The CUPA's next step is to incorporate any changes to the MOU based on the comments received and, also, submit the Area Plan to the County Counsel for review.</p> <p>HSC, Chapter 6.95, Section 25503 (d) [OES]</p>	Beginning July 16, 2008, the CUPA will submit the status of this deficiency. In addition, once the CUPA finalizes its Area Plan, submit a copy to OES.
6	<p>The CUPA has not performed an annual California Accidental Release Prevention (CalARP) performance audit.</p> <p>CCR, Title 19, Section 2780.5 [OES]</p>	By January 12, 2009, the CUPA will have performed an annual CalARP performance audit. Annually thereafter, the CUPA may incorporate the CalARP performance audit with the Unified Program annual Self-Audit Report.
7	<p>The CUPA does not have a CalARP dispute resolution procedure.</p> <p>CCR, Title 19, Section 2780.1 [OES]</p>	By July 16, 2008, the CUPA will establish a CalARP dispute resolution procedure.
8	<p>The CUPA is not ensuring that all businesses subject to the hazardous materials reporting requirements to annually submit their hazardous materials inventory or annual certification statement of "no change" in hazardous materials inventory. Of the 16 files reviewed, four facility files did not possess annually certified inventories.</p> <p>HSC, Chapter 6.95, Section 25505 (d) [OES]</p>	By July 16, 2008 the CUPA will submit an action plan outlining how the CUPA will maintain annual inventory certifications for its business plan files.

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9	<p>The CUPA is not requiring businesses, subject to the hazardous materials reporting requirements, to certify and review their business plan every three years. Of the 16 files reviewed, two were found not to have been certified and reviewed within the last three years.</p> <p>HSC, Chapter 6.95, Section 25505 (c) [OES]</p>	<p>By July 16, 2008 the CUPA must submit an action plan outlining how the CUPA will maintain Business Plan review certifications among the business plans.</p>
10	<p>The CUPA did not conduct a complete hazardous waste generator inspection on March 19, 2008. During the inspection, the following items were noted:</p> <ol style="list-style-type: none"> 1) The inspector failed to observe that contaminated drums had not been marked with the date that they had been emptied as specified under California Code of Regulations title 22, section 66261.7 (f). 2) The inspector inadvertently overlooked that accumulation start dates had not been posted on numerous spent fluorescent tubes as required by California Code of Regulations title 22, section 66273.15, had not been labeled as required by California Code of Regulations title 22, section 66273.14, and had not been stored as required by California Code of Regulations title 22, section 66273.13 (c)(2). 3) The inspector failed to determine whether the facility was a large quantity generator (> 1000 kilograms in any calendar month) of hazardous waste by totaling all hazardous waste generated at the site from the facility's bills of lading and manifests. As a consequence, the inspector was unable to determine whether California Code of Regulations title 22, section 66262.34 (a) was applicable. 4) The inspector failed to determine as a consequence whether the facility had maintained its eye wash/showers, first aid stations, and fire extinguishers as required by California Code of Regulations title 22, section 66265.33. <p>CCR, Title 22, Sections 66261.7 (f), 66273.13 (c)(2), 66262.34(a) and 66265.33 [DTSC]</p>	<p>The CUPA inspector corrected this deficiency before the end of the inspection.</p>
11	<p>The CUPA is unable to document in certain instances that some facilities with a notice to comply for minor violations have not returned to compliance within 30 days of notification. Either the business must submit a Return to Compliance (RTC) Certification in order to document its compliance or, in the absence of certification, the CUPA must use a follow-up process to confirm that</p>	<p>The CUPA will follow its I&E Program Plan. By January 12, 2009, submit an example of an RTC or a complete follow-up report.</p>

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	<p>compliance has been achieved. For example, no RTC or re-inspection reports could be found in the files for the following facilities documenting that all violations had been corrected:</p> <ol style="list-style-type: none"> 1) The May 14, 2002, and April 25, 2003, inspections conducted at Vertical Circuits located at 10 Victor Square in Scotts Valley. 2) The April 5, 2005, inspection conducted at Cemex located at 700 Highway 1 in Davenport. 3) The November 16, 2007, inspection conducted at Art Cleaners located at 245 Mountain Herman Road in Scotts Valley. 4) The December 3, 2004, inspection conducted at Carmat Center located at Manisfield Street in Santa Cruz. 5) The December 13, 2004, December 5, 2006, and November 16, 2007, inspections conducted at CHP located at 10395 Soquel Drive in Santa Cruz. 6) The October 15, 2007, inspection conducted at Shatzki Co. located at 2003 Mission Street in Santa Cruz. <p>CCR, Title 27, Section 15200 and HSC, Chapter 6.5, Section 25187.8 [DTSC]</p>	
12	<p>The CUPA failed to take enforcement in a manner consistent with the law. The CUPA failed to take the appropriate enforcement against a facility for the following violations noted during the file review:</p> <p>Threshold Enterprises, LTD, located at 23 Janis Way in the City of Scotts Valley has been inspected annually by the CUPA over the previous years. The results of these inspections are as follows:</p> <p>During the CUPA's December 2, 2002, inspection of the facility, the following violations were noted:</p> <ol style="list-style-type: none"> 1) (Item No. 55) "Ensure that you adhere to the manifest management requirements in CCR-T22. Keep copies of each manifest for a minimum of 3 years and make available for review at inspections." 2) (Item No. 46) "Keep hazardous waste containers labeled with all information required by CCR-T22." <p>During the CUPA's December 29, 2004, inspection of the facility, the following violations were noted:</p> <ol style="list-style-type: none"> 1) (Item No. 45) "Label hazardous waste containers with all information required by CCR-T22 including the accumulation date. Do not store hazardous wastes past the applicable limit based on the accumulation 	<p>The CUPA will initiate and complete the appropriate formal enforcement in the future for all Class I violations.</p> <p>The CUPA will refresh staff knowledge of the definitions of Class I, Class II and minor violations. A good tool for refresher training may include covering the Cal/EPA "Violation Classification Guidance Document for Unified Program Agencies," which is available on the Cal/EPA website under Unified Program-Publications and Forms.</p> <p>By July 16, 2008, the CUPA will provide violation determination training to its inspectors.</p>

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<p>date.”</p> <p>2) (Item No. 55) “Manage manifest documentation as required by CCR-T22. Ensure that all information on the manifest is correct and that discrepancies are explained. Manifests shall be retained. Manifests shall be retained for a minimum of 3 years and shall be made available for review on demand within a reasonable time (36 hrs).”</p> <p>During the CUPA’s March 23, 2005, inspection of the facility, the following violations were noted:</p> <p>1) (Item No. 55) “Manage manifest documentation as required by CCR-T22, including calls to transporter and/or TSDF when manifest copy verifying receipt of shipment is not received within 35 days and submittal of exception report to DTSC when manifest copy verifying receipt by TSDF of shipment is not received in 45 days from date of shipment.”</p> <p>During the CUPA’s December 13, 2005, inspection of the facility, the following violations were noted:</p> <p>1) (Item No. 45) “Do not store hazardous waste longer than permitted by CCR-T22.”</p> <p>2) (Item No. 46) “Keep hazardous waste containers labeled.”</p> <p>3) (Item No. 60) “One Texas manifest without second copy, obtain or find the second copy.”</p> <p>A re-inspection later determined that the facility had returned to compliance on February 23, 2006, for the hazardous waste inspection notice on December 13, 2005.</p> <p>During the CUPA’s December 05, 2006, inspection of the facility, the following violations were noted:</p> <p>1) (Item No. 46) “Keep hazardous waste containers labeled with appropriate information as required by CCR-T22. This includes appropriate accumulation and satellite accumulation dates. Labeling discrepancies in hazardous storage shed, print shop, the lab.”</p> <p>During the CUPA’s December 17, 2007, inspection of the facility, the following violations were noted:</p> <p>1) (Item No. 46) “Keep satellite accumulation containers labeled with the information required by CCR-T22.”</p> <p>2) (Item No. 55) “Ensure that all required copies of manifest are received and retained for 3 years. When</p>	
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	<p>not received on time make required call to the transporter and the designated facility.”</p> <p>3) (Item No. 51) “Keep ink container waste closed unless pouring it.”</p> <p>In summary, Threshold Enterprises has had a series of repetitive violations over a span of several years. A Class I deviation is a Class II violation, which is either a chronic violation or one committed by a recalcitrant violator. A Class II violation has the same meaning as defined in section 66260.10 of the California Code of Regulations title 22. A Class I violation must be addressed through a formal enforcement action according to the State Enforcement Response Policy (E0-02-003-PP).</p> <p>HSC Sections 25110.8.5 and 25117.6, and CCR, Title 22, Section 66260.10 and Title 27, Section 15200 (a)(8), [DTSC]</p>	
13	<p>The underground storage tank (UST) operating permit does not contain all of the required elements. The permit is missing monitoring requirements for both the tank and piping.</p> <p>CCR Title 23, Section 2712 (c) [SWRCB]</p>	<p>By April 30, 2009, the CUPA will amend the permit to reflect all the required elements. The CUPA may either add the missing elements to the permit or as a condition of the permit; then attach the completed and approved monitoring plan to the permit.</p>

CUPA Representative

STEVEN SCHNEIDER
(Print Name)

Original signed
(Signature)

Evaluation Team Leader

JENNIFER L. LORENZO
(Print Name)

Original signed
(Signature)

Certified Unified Program Agency (CUPA)
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PROGRAM OBSERVATIONS AND RECOMMENDATIONS

The observations and recommendations provided in this section address activities the CUPA are implementing and/or may include areas for continuous improvement not specifically required of the CUPA by regulation or statute.

1. **Observation:** The CUPA's last customer service survey was conducted in FY 98/99.

Recommendation: The CUPA is encouraged to continue to have their customer service survey readily available at the CUPA's office or via its website.

2. **Observation:** The CUPA's training log of its staff includes two different formats. The first format used a resume-style document which includes a list of training since the staff has been employed with the CUPA (up until March 2005). However, for any trainings received during the month of and after March 2005, copies of certificates, attendance record or the training events' agenda were enclosed in each staff's training record. In addition, not all agenda contained the year of the event.

Recommendation: The CUPA is encouraged to choose or develop a uniform format to document the trainings received by its staff members. For seminars or conferences with multiple training events, include the individual classes attended and the number of hours for each class. Also, ensure that all dates include the year.

3. **Observation:** The CUPA's inspection report forms do not provide a place to note an owner's or facility representative's consent to inspect the facility.

Recommendation: The CUPA is strongly encouraged to provide a place for consent to inspect on all inspection reports. Documentation of consent serves to strengthen any potential enforcement case defeating any potential challenge that the fourth amendment may have been abridged.

4. **Observation:** Since the CUPA's last evaluation in 2005, the CUPA has not been actively participating in or attending regional meetings such as environmental crimes task force, CUPA Forum, and UST Technical Advisory Group (TAG) meetings. Mr. Steve Schneider was able to attend a few of the meetings in the past as the CUPA Manager, but he has not been able to attend since his promotion to the Environmental Health Division Director of Santa Cruz County; however, the CUPA has only recently filled the vacant CUPA Manager position. The new CUPA Manager is expected to begin in September 2008.

Recommendation: Once the CUPA Manager begins with his/her employment with the CUPA in September 2008, the CUPA Manager is encouraged to attend CUPA-related meetings or events for purposes of consolidating, coordinating, and making consistent the Unified Program. In the interim or during times when the CUPA Manager is unavailable, the CUPA may also have one of its staff members attend the CUPA-related meetings or events.

5. **Observation:** The CUPA maintains its archived and scanned facility files via the Fortis document management software. Current files, on the other hand, are maintained as hard copies within the CUPA Program Manager's office and filed by street address. The scanned files were characterized as various document types (such as correspondence, permit, and inspection report),

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marked with a code for each of the Unified Program elements, and noted as either confidential or non-confidential information. A few of the files reviewed, such as inspection reports, were noted as confidential.

Recommendation: Continue to characterize each scanned file to differentiate between the documents for each facility and ensure that all confidential files are meant to be confidential.

- 6. Observation:** In addition to implementing the Unified Program, the CUPA also oversees the site mitigation unit for the County of Santa Cruz. The goal of the CUPA is to separate the site mitigation unit from the CUPA program so that CUPA inspectors will be solely dedicated to implementing the Unified Program. The CUPA hopes to apply for the local oversight program.
- 7. Observation:** For the most part, the business plan files reviewed were complete and up-to-date; however, out of the 16 random files reviewed, two were missing the Emergency Response Plan and one was missing the Employee Training Plan.

Recommendation: CUPA staff should review all business plans to ensure completeness and correctness.

- 8. Observation:** The CUPA was able to demonstrate that approximately 75 percent of the complaints which were referred by DTSC from February 1, 2005, to January 01, 2008, were investigated. Follow-up documentation could be found for Complaint Numbers 05-1105-0568, 05-0505-0234, 06-0106-0050, 07-0607-0340, 07-0107-0003, 06-0706-0374, 07-0707-0393, and 07-0407-0225, but not for Complaint Numbers 07-0907-0475, 06-0806-0417, 07-0407-0187, and 07-1207-0684.

Recommendation: Tracking of complaints may be improved. Ensure that all complaints are being received by the CUPA from DTSC by providing the e-mail address of the person who should receive complaints to the DTSC complaint coordinator [nlancast@dtsc.ca.gov]. Investigate and document all complaints referred. Investigation does not always entail inspection, as many issues may be resolved by other means such as a phone call. In any instance, it is suggested that all investigations be documented, either by inspection report or by "note to file" and placed in the facility file.

- 9. Observation:** The CUPA's inspection reports do not distinguish Class I, Class II, and minor violations.

Recommendation: The CUPA may wish to modify its inspection report to classify these violations in order to distinguish between enforcement modes for Class I, Class II, and minor violations. This will also enable ease of reporting onto the new Annual Enforcement Summary Report 4 form, which now requires that all violations be classified into Class I, Class II, or minor for all Unified Program elements.

- 10. Observation:** The inspection reports lack a section for the description of a facility's operation and/or manufacturing processes occurring on site.

Recommendation: The inspector should develop an observation section of the report in order to fully describe the facility's operations occurring on site so that anyone who may read the report may gain an

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understanding of the products made, services provided, and/or the industrial or manufacturing processes that occur. For example, the description for Aviza Technology, Inc., might be that the facility offers process technologies addressing critical thin film formation in integrated semiconductor chips, including atomic layer deposition, physical vapor deposition, chemical vapor deposition, plasma etch and thermal processing.

- 11. Observation:** The CUPA's current inspection report/generator checklist lacks citations or references to laws and regulations, such as the California Code of Regulations and the Health and Safety Code.

Recommendation: The CUPA is strongly encouraged to include citations or references to the appropriate statute(s) and/or regulation(s) on its inspection reports/checklists so that business owners or operators may research the code independently.

- 12. Observation:** Inspection reports reviewed did not incorporate a thorough and comprehensive listing of generator requirements.

Recommendation: The CUPA is strongly encouraged to review the example checklist provided by DTSC as a model in developing and modifying the CUPA's current checklist (inspection report). A comprehensive checklist ensures that no rule, regulation, or statute is inadvertently overlooked.

- 13. Observation:** The CUPA does not typically take photographs during its UST inspections.

Recommendation: Photographs are useful to document violations and the conditions at the facility. Photographs can also help strengthen a case should enforcement become necessary. Always remember to date stamp photographs.

- 14. Observation:** The CUPA re-inspects its UST facilities to determine whether or not a facility has returned to compliance. This is an excellent practice, provided the CUPA has the staff resources to implement this. Revisiting each facility is the best approach to determine whether a facility has returned to compliance.

- 15. Observation:** The UST inspection checklist is very broad. It lacks an appropriate level of detail and clarity to ensure that all inspectors on each inspection are consistently verifying compliance with all regulatory requirements. In addition, the UST inspection checklist does not identify Significant Operational Compliance (SOC) items or provide for a summary of these items for tracking purposes.

Recommendation: The SWRCB strongly encourages the CUPA to develop a thorough UST facility inspection checklist with citations or references to the laws and regulations. The inspection checklist should include (tank, piping, sump, under-dispenser, overfill spill bucket, overfill prevention systems, audible/visual alarm, leak detection monitoring sensors, leak detection control panel, cathodic protection, alarm history, tri-annual secondary containment testing, designator operator, employ training, record keeping, etc.), items that an inspector needs to verify and determine compliance. The SWRCB also recommends that the CUPA provide a means for determining SOC compliance during the inspection and provide a means for tracking

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the compliance in order to provide the data for Report 6. A detailed inspection checklist will aid the inspectors in completing thorough and consistent facility inspections.

- 16. Observation:** A review of the CUPA's website showed that UST facility forms have been made available for public downloads. However, the forms are not the most current versions. The CUPA has also made available, a list of companies who remove USTs, UST closure packet, a list of active USTs, Hazardous Materials Fee Schedule, and other materials that relate to the CUPA program.

Recommendation: Update the UST forms and any pertinent CUPA forms to the most current versions, update or remove the list of active USTs (list dated 7/1/07 – 9/30/07), add an application packet, an installation packet, and maybe a list of companies that install UST systems.

- 17. Observation:** The inspector conducted a thorough UST inspection on April 15, 2008. It was noted during the inspection that the line which runs from the unleaded tank to the dispensers failed its secondary containment test. The CUPA inspector gave the facility 30 days to correct this violation and explained the procedures that need to be taken to correct this violation. The CUPA inspector also noted during the onsite facility file review that the alarm history printouts provided by the designated operator were not generated correctly. The CUPA inspector asked the service technician to explain to the facility manager what needed to be on the alarm history printout and what to look for in the future.

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EXAMPLES OF OUTSTANDING PROGRAM IMPLEMENTATION

1. Santa Cruz County CUPA has effectively used the notice of an office hearing (NOH) to achieve compliance from its businesses. The CUPA uses the NOH approach for businesses that have not returned to compliance within an established timeframe for minor violations. Once a notice of or intent for an office hearing has been issued to a business, the business generally comes into compliance. During FY 05/06, four NOHs were issued and, during FY 06/07, 10 NOHs were issued. All businesses returned to compliance before any further enforcement actions were taken by the CUPA.
2. The CUPA successfully completed an Administrative Enforcement Order (AEO) against Texas Instruments, Inc., for violations in the business plan program during FY 05/06. In addition, the CUPA issued Red Tags for two UST facilities within the last three fiscal years.
3. On April 15, 2008, the CUPA inspector conducted very thorough business plan inspections of two facilities (an apple orchard and a quarry). The CUPA inspector's attention to detail and knowledge of statutes and regulations resulted in an excellent inspection at each facility. Additionally, the inspector has built an excellent working relationship with the community which aids in conducting inspections and obtaining compliance.